

SENATE BILL No. 325

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-4-28; IC 6-3.1-18.

Synopsis: Individual development accounts. Requires that a primary residence or business for which money is withdrawn from an individual development account (account) must be located or based in Indiana. Provides for use of money from an account for purchase of a motor vehicle. Increases from 175% to 200% of the federal income poverty level the maximum annual income that an individual may have to qualify for an account. Requires a qualifying individual to be an Indiana resident. Removes the deadline for deposits to accounts. Provides that a community development corporation may apply to the housing and community development authority for an allocation of tax credits for contributors to an individual development account fund. Prohibits application of fees to an account. Allows a community development corporation to approve a business plan before receiving the plan with a request for a withdrawal for use in connection with a business. Codifies current practices for allocation and claims of individual development account tax credits.

Effective: January 1, 2016 (retroactive).

Messmer

January 7, 2016, read first time and referred to Committee on Family & Children Services.



Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 325

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-4-28-5, AS AMENDED BY P.L.150-2007,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2016 (RETROACTIVE)]: Sec. 5. As used in this
4 chapter, "individual development account" means an account in a
5 financial institution administered by a community development
6 corporation that allows a qualifying individual to deposit money:

7 (1) to be matched by the state, financial institutions, corporations,
8 and other entities; and

9 (2) that will be used by the qualifying individual for one (1) or
10 more of the following:

11 (A) To pay for costs (including tuition, laboratory costs, books,
12 computer costs, and other costs associated with attendance) at
13 an accredited postsecondary educational institution or a
14 vocational school that is not a postsecondary educational
15 institution, for the individual or for a dependent of the
16 individual.

17 (B) To pay for the costs (including tuition, laboratory costs,



books, computer costs, and other costs) associated with an accredited or a licensed training program that may lead to employment for the individual or for a dependent of the individual.

(C) To purchase a primary residence **located in Indiana** for the individual or for a dependent of the individual or to reduce the principal amount owed on a primary residence **located in Indiana** that was purchased by the individual or a dependent of the individual with money from an individual development account.

(D) To pay for the rehabilitation (as defined in IC 6-3.1-11-11) of the individual's primary residence **located in Indiana**.

(E) To begin or to purchase part or all of a business **based in Indiana** or to expand an existing small business **based in Indiana**.

(F) Subject to section 8(b) of this chapter, to purchase a motor vehicle.

SECTION 2. IC 4-4-28-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016 (RETROACTIVE)]: **Sec. 5.5. As used in this chapter, "motor vehicle" has the meaning set forth in IC 9-13-2-105(a).**

SECTION 3. IC 4-4-28-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016 (RETROACTIVE)]: Sec. 6. As used in this chapter, "qualifying individual" means an individual or a member of an individual's household who may establish an individual development account because the individual:

(1) is an Indiana resident; and

(2) either:

(1) (A) receives or is a member of a household that receives assistance under IC 12-14-2; or

(2) (B) is a member of a household with an annual household income that is less than ~~one two hundred seventy-five percent (175%)~~ **(200%)** of the federal income poverty level.

SECTION 4. IC 4-4-28-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016 (RETROACTIVE)]: Sec. 7. (a) A qualifying individual, including an individual who:

(1) established an individual development account under this chapter before July 1, 2001; and

(2) held the account described in subdivision (1) for less than four (4) years;

may establish an account by applying at a community development



corporation after June 30, 2001.

(b) At the time of establishing an account under this section, the qualifying individual must name a beneficiary to replace the qualifying individual as the holder of the account if the qualifying individual dies.

If the beneficiary:

(1) is a member of the qualifying individual's family, all funds in the account remain in the account; and

(2) is not a member of the qualifying individual's family, all funds in the account provided by the state revert to the state.

The qualifying individual may change the name of the beneficiary at the qualifying individual's discretion. A beneficiary who becomes the holder of an account under this subsection is subject to this chapter and rules adopted under this chapter regarding withdrawals from the account.

(c) Only one (1) member of a qualifying individual's household may establish an account.

(d) A qualifying individual shall maintain residency in Indiana until the individual development account is closed.

SECTION 5. IC 4-4-28-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016 (RETROACTIVE)]: Sec. 8. (a) A community development corporation shall do the following:

(1) Determine whether an individual who wants to establish an account is a qualifying individual.

(2) Administer, through a financial institution, and act as trustee for each account established through the community development corporation.

(3) Approve or deny an individual's request to make a withdrawal from the individual's account.

(4) Provide or arrange for training in money management, budgeting, and related topics for each individual who establishes an account.

(b) A community development corporation may approve a qualifying individual's request to make a withdrawal from an account to purchase a motor vehicle if the purpose of the purchase is primarily to transport the individual to and from work, postsecondary education, or an accredited or licensed training program intended to lead to employment of the individual or a dependent of the individual.

SECTION 6. IC 4-4-28-12, AS AMENDED BY P.L.150-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016 (RETROACTIVE)]: Sec. 12. (a) The authority shall allocate, for each account that has been established, for not more



1 than ~~four (4)~~ **five (5)** years, three dollars (\$3) for each one dollar (\$1)
 2 of the first four hundred dollars (\$400) an individual deposited into the
 3 individual's account during the preceding twelve (12) months.
 4 However, if the amount appropriated by the general assembly is
 5 insufficient to make the deposits required by this section for accounts
 6 that have been established, the authority shall proportionately reduce
 7 the amounts allocated to and deposited into each account. The authority
 8 may allocate three dollars (\$3) for each one dollar (\$1) of any part of
 9 an amount above four hundred dollars (\$400) an individual deposited
 10 into the individual's account during the preceding twelve (12) months.
 11 However, the authority's allocation under this subsection may not
 12 exceed two thousand four hundred dollars (\$2,400) for each account
 13 described in this subsection.

14 (b) ~~Not later than June 30 of each year,~~ The authority shall deposit
 15 into each account established under this chapter the appropriate amount
 16 of money determined under this section. ~~However, if the individual~~
 17 ~~deposits the maximum amount allowed under this chapter on or before~~
 18 ~~December 31 of each year, the individual may request in writing that~~
 19 ~~the authority allocate and deposit the matched funds under subsection~~
 20 ~~(a) into the individual's account not later than forty-five (45) days after~~
 21 ~~the authority receives the written request.~~

22 (c) Money from a federal block grant program under Title IV-A of
 23 the federal Social Security Act may be used by the state to provide
 24 money under this section for deposit into an account held by an
 25 individual who receives assistance under IC 12-14-2.

26 SECTION 7. IC 4-4-28-13 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JANUARY 1, 2016 (RETROACTIVE)]:
 28 Sec. 13. (a) Each community development corporation ~~shall~~ **may apply**
 29 **to the authority for an allocation of tax credits under IC 6-3.1-18**
 30 **for the contributors to a fund established under this section. A**
 31 **community development corporation may** establish an individual
 32 development account fund to provide money to be used to finance
 33 additional accounts to be administered by the community development
 34 corporation under this chapter and to help pay for the community
 35 development corporation's expenses related to the administration of
 36 accounts.

37 (b) Each community development corporation shall encourage
 38 individuals, financial institutions, corporations, and other entities to
 39 contribute to the fund. A contributor to the fund may qualify for a tax
 40 credit as provided under IC 6-3.1-18.

41 (c) Each community development corporation may use up to twenty
 42 percent (20%) of the first one hundred thousand dollars (\$100,000)



deposited each calendar year in the fund under subsection (b) to help pay for the community development corporation's expenses related to the administration of accounts established under this chapter. All deposits in the fund under subsection (b) of more than one hundred thousand dollars (\$100,000) during each calendar year may be used only to fund accounts administered by the community development corporation under this chapter.

(d) A community development corporation may allow an individual to establish a new account as adequate funding becomes available.

(e) Only money from the fund may be used to make the deposit described in subsection (f) into an account established under this section.

(f) The community development corporation shall annually deposit at least three dollars (\$3) into each account for each one dollar (\$1) an individual has deposited into the individual's account as of June 30.

(g) A community development corporation may not allow a qualifying individual to establish an account if the community development corporation does not have adequate funds to deposit into the account under subsection (f).

SECTION 8. IC 4-4-28-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016 (RETROACTIVE)]: Sec. 14. (a) An account must earn interest at a rate that is competitive in the county where the account is located.

(b) Interest earned on an account during a taxable year is not subject to taxation under IC 6-3 or IC 6-5.5.

(c) An account is a custodial account and is not subject to fees.

SECTION 9. IC 4-4-28-16, AS AMENDED BY P.L.150-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016 (RETROACTIVE)]: Sec. 16. (a) Money withdrawn from an individual's account is not subject to taxation under IC 6-3-1 through IC 6-3-7 if the money is used for at least one (1) of the following:

(1) To pay for costs (including tuition, laboratory costs, books, computer costs, and other costs) at an accredited postsecondary educational institution or a vocational school that is not a postsecondary educational institution for the individual or for a dependent of the individual.

(2) To pay for the costs (including tuition, laboratory costs, books, computer costs, and other costs) associated with an accredited or a licensed training program that may lead to employment for the individual or for a dependent of the individual.

(3) To purchase a primary residence **located in Indiana** for the



individual or for a dependent of the individual or to reduce the principal amount owed on a primary residence **located in Indiana** that was purchased by the individual or a dependent of the individual with money from an individual development account.

(4) To pay for the rehabilitation (as defined in IC 6-3.1-11-11) of the individual's primary residence **located in Indiana**.

(5) To begin or to purchase part or all of a business **based in Indiana** or to expand an existing small business **based in Indiana**.

(6) Subject to section 8(b) of this chapter, to purchase a motor vehicle.

(b) At the time of requesting authorization under section 15 of this chapter to withdraw money from an individual's account under subsection (a)(5), the individual must provide the community development corporation with a business plan that:

(1) **is has been** approved by

~~(A)~~ a financial institution or

~~(B) a nonprofit loan fund that has demonstrated fiduciary stability;~~ **is approved by the community development corporation;**

(2) includes a description of services or goods to be sold, a marketing plan, and projected financial statements; and

(3) may require the individual to obtain the assistance of an experienced business advisor.

SECTION 10. IC 6-3.1-18-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016 (RETROACTIVE)]: **Sec. 4.5. As used in this chapter, "qualified contribution" means a contribution to a fund for which a community development corporation has received an allocation of tax credits under IC 4-4-28-13.**

SECTION 11. IC 6-3.1-18-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016 (RETROACTIVE)]: Sec. 6. (a) Subject to the limitations provided in subsection (b) and sections 7, 8, 9, 10, and 11 of this chapter, the department shall grant a tax credit against any state tax liability due equal to fifty percent (50%) of the amount ~~contributed~~ **of a qualified contribution made in a taxable year** by a person or an individual ~~to a fund~~ if the **qualified** contribution is not less than one hundred dollars (\$100) and not more than fifty thousand dollars (\$50,000).

(b) The credit provided by this chapter shall only be applied against any state tax liability owed by the taxpayer after the application of any credits that under IC 6-3.1-1-2 must be applied before the credit



1 provided by this chapter.

2 SECTION 12. IC 6-3.1-18-9 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JANUARY 1, 2016 (RETROACTIVE)]:
4 Sec. 9. (a) A person that or an individual who desires to claim a tax
5 credit as provided in this chapter shall file with the department, in the
6 form approved by the department, an application stating the amount of
7 the **qualified** contribution that the person or individual proposes to
8 make ~~that would qualify for a tax credit~~ and the amount sought to be
9 claimed as a credit.

10 (b) The department shall promptly notify an applicant whether, or
11 the extent to which, the tax credit is allowable in the state fiscal year in
12 which the application is filed, as provided in section 6 of this chapter.
13 If the credit is allowable in that state fiscal year, the applicant shall
14 within thirty (30) days after receipt of the notice file with the
15 department a statement, in the form and accompanied by the proof of
16 payment **of the qualified contribution** as the department may
17 prescribe, setting forth that the amount to be claimed as a credit under
18 this chapter has been paid ~~to a fund~~ **through a qualified contribution**
19 as provided in section 6 of this chapter.

20 (c) The department may disallow any credit claimed under this
21 chapter for which the statement or proof of payment is not filed within
22 the thirty (30) day period.

23 SECTION 13. [EFFECTIVE JANUARY 1, 2016
24 (RETROACTIVE)] **(a) IC 6-3.1-18-4.5, as added by this act, applies**
25 **to taxable years beginning after December 31, 2015.**

26 **(b) IC 4-4-28-13, IC 6-3.1-18-6, and IC 6-3.1-18-9, each as**
27 **amended by this act, apply to taxable years beginning after**
28 **December 31, 2015.**

29 **(c) This SECTION expires January 1, 2018.**

30 SECTION 14. **An emergency is declared for this act.**

